

FCC Received December 16, 1993 @ 3:25 p.m.

Henna A. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

TRINITY BROADCASTING OF FLORIDA
and
GLENDALE BROADCASTING COMPANY

Miami, Florida

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MM DOCKET NO. 93-75

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

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IN THE MATTER OF:)

TRINITY BROADCASTING OF FLORIDA)
and)

GLENDAL E BROADCASTING COMPANY)

Miami, Florida)

The above-entitled matter came on for hearing pursuant to Notice before Joseph Chachkin, Administrative Law Judge, at 2000 L Street, NW, Washington, D.C. in Courtroom 3, on Thursday, December 2, 1993, at 9:30 a.m.

APPEARANCES:

On Behalf of Trinity Broadcasting of Florida, Inc.:

EUGENE MULLIN, Esquire
NATHANIEL EMMONS, Esquire
HOWARD TOPEL, Esquire
CHRISTOPHER HOLT, Esquire
Mullin, Rhyne, Emmons and Topel
1000 Connecticut Avenue, Suite 500
Washington, D.C. 20036-5383

On Behalf of Glendale Broadcasting Company:

LEWIS COHEN, Esquire
JOHN SCHAUBLE, Esquire
Cohen and Berfield, P.C.
1129 20th Street, NW
Washington, D.C. 20036

On Behalf of S.A.L.A.D.:

DAVID HONIG, Esquire
DAVID McCURDY, Esquire
1800 NW 187 Street
Miami, Florida 33056

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1 APPEARANCES (Continued):

2 On Behalf of Chief, Mass Media Bureau:

3 GARY SHOOK, Esquire
4 GARY SCHONMAN, Esquire
5 2025 M Street, NW, Suite #7212
6 Washington, D.C. 20036
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I N D E X				
	<u>EXHIBIT NO.</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
3	TBF Exhibit No. 106	790	807	
	TBF Exhibit No. 107	808	810	
4	TBF Exhibit No. 108	810	820	
	TBF Exhibit No. 109	811	861	
5	TBF Exhibit No. 110	811		865
	TBF Exhibit No. 111	811		866
6	TBF Exhibit No. 112	812	868	
	TBF Exhibit No. 113	812	869	
7	TBF Exhibit No. 114	812		870
	TBF Exhibit No. 115	813		871
8	TBF/GLENDALE No. 5	875	875	
	TBF/GLENDALE No. 6	875	876	
9	TBF Exhibit No. 203	876	884	
	TBF Exhibit No. 204	877	885	
10	TBF Exhibit No. 205	877	885	
	TBF Exhibit No. 206	878	886	
11	TBF Exhibit No. 207	878	887	
	TBF Exhibit No. 208	878	888	
12	TBF Exhibit No. 209	878	888	
	TBF Exhibit No. 210	879	890	
13	TBF Exhibit No. 211	891	894	
	TBF Exhibit No. 212	891	897	
14	TBF Exhibit No. 213	891	900	
	TBF Exhibit No. 214	892	900	
15	TBF Exhibit No. 215	892	900	
	TBF Exhibit No. 216	892	901	
16	TBF Exhibit No. 217	892	901	
	TBF Exhibit No. 218	893	902	
17	TBF Exhibit No. 219	893	902	
	TBF Exhibit No. 220	894	902	
18	TBF Exhibit No. 221	903	905	
	TBF Exhibit No. 222	903	906	
19	TBF Exhibit No. 223	903	906	
	TBF Exhibit No. 224	904	908	
20	TBF Exhibit No. 225	904	909	
	TBF Exhibit No. 226	904	909	
21	TBF Exhibit No. 227	904	910	
	TBF Exhibit No. 228	904	910	
22	TBF Exhibit No. 229	905	911	
	TBF Exhibit No. 230	905	911	
23	TBF Exhibit No. 231	911	914	
	TBF Exhibit No. 232	912	916	
24	TBF Exhibit No. 233	912	916	
	TBF Exhibit No. 234	912	918	
25	TBF Exhibit No. 235	912	918	

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	<u>EXHIBIT NO.</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
2	TBF Exhibit No. 236	913	919	
	TBF Exhibit No. 237	913	920	
3	TBF Exhibit No. 238	913	921	
	TBF Exhibit No. 239	913	923	
4	TBF Exhibit No. 240	914	924	
	TBF Exhibit No. 241	924	930	
5	TBF Exhibit No. 242	924	931	
	TBF Exhibit No. 243	925	931	
6	TBF Exhibit No. 244	925	931	
	TBF Exhibit No. 245	925	931	
7	TBF Exhibit No. 246	926	931	
	TBF Exhibit No. 247	926	931	
8	TBF Exhibit No. 248	926	933	
	TBF Exhibit No. 249	926	933	
9	TBF Exhibit No. 250	927	934	
	TBF Exhibit No. 251	934	937	
10	TBF Exhibit No. 252	935	937	
	TBF Exhibit No. 253	935	937	
11	TBF Exhibit No. 254	935	940	
	TBF Exhibit No. 255	935	940	
12	TBF Exhibit No. 256	936	943	
	TBF Exhibit No. 257	936	948	
13	TBF Exhibit No. 258	936	956	
	TBF Exhibit No. 259	936	957	
14	TBF Exhibit No. 260	937	958	
	TBF Exhibit No. 261	959	967	
15	TBF Exhibit No. 262	960	967	
	TBF Exhibit No. 263	960	967	
16	TBF Exhibit No. 264	960	967	
	TBF Exhibit No. 265	961	968	
17	Bureau Exhibit No. 504	970	974	
	Bureau Exhibit No. 508	970	974	
18	Bureau Exhibit No. 509	970	974	
	Bureau Exhibit No. 519	970	975	
19	Bureau Exhibit No. 520	970	975	
	Bureau Exhibit No. 530	970	975	
20	Bureau Exhibit No. 531	972		Withdrawn
	Bureau Exhibit No. 532	972	977	
21	Bureau Exhibit No. 534	972	977	
	Bureau Exhibit No. 535	973	977	
22	Glendale Exhibit No. 207	978	980	
	Glendale Exhibit No. 208	979	980	
23	Glendale Exhibit No. 209	979	980	
24	Hearing Began: 9:30 a.m.	Hearing Ended: 4:00 p.m.		
25	Lunch Began: 12:30 p.m.	Lunch Ended: 1:30 p.m.		

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P R O C E E D I N G S

(9:30 a.m.)

1 JUDGE CHACHKIN: Let's go back on the record. How
2 have we -- what agreement has been made concerning how we're
3 proceeding? Mr. Honig?

4 MR. McCURDY: Right, that agreement has been to
5 submit our case starting tomorrow morning.

6 JUDGE CHACHKIN: Oh, tomorrow morning.

7 MR. McCURDY: The first thing tomorrow morning.

8 JUDGE CHACHKIN: Oh, I see, all right. I guess
9 everybody has an -- has had an opportunity to look at
10 S.A.L.A.D.'s motion with Mick Telvy (phonetic) who covered
11 your hearing. Anybody want to offer any comments?

12 MR. COHEN: Your Honor, I had one question that I
13 reflected last night, that hadn't been responded to by Mr. --
14 I hadn't put the question before the Commission, I'd like to
15 put a question to Mr. Topel and that is whether Trinity
16 intended to take the entire proceeding, that is the
17 examination, the cross examination, and the examination of my
18 clients, who are the principal of, and the other -- other
19 persons who would be testifying on behalf of Glendale
20 Broadcasting.

21 MR. TOPEL: Your Honor, I'm going to delegate the
22 response on this issue to Emmons, with your permission.

23 JUDGE CHACHKIN: Mr. Emmons?

24 MR. EMMONS: Your Honor, the answer to that question

1 is yes, that is Trinity's intention.

2 JUDGE CHACHKIN: You're talking about the issues
3 added against Glendale too?

4 MR. EMMONS: Yes.

5 JUDGE CHACHKIN: You're intending to cover that too?

6 MR. EMMONS: Yes, Your Honor.

7 MR. COHEN: Well, then Your Honor, I would want to
8 make sure, I would hope that everybody would agree then that
9 we would have a representation from Mr. Emmons that his client
10 would not utilize the tape in any way that would disparage any
11 of the witnesses who would be testifying on behalf of Glendale
12 Broadcasting. And this would give them a lot of power.

13 MR. EMMONS: Well, Your Honor, I don't know what
14 that means. We do undertake, as you requested yesterday and
15 it is Trinity's intention that the tape would not be used for
16 any purpose other than broadcast, which includes the editorial
17 discretion not to broadcast anything.

18 It's not going to be used for citation to the
19 record, or to supplement or to substitute for the record in
20 this proceeding, it's not going to be used to show to any
21 witness who was sequestered or any purpose like that, Your
22 Honor.

23 MR. COHEN: Oh, I didn't think of something, for
24 example, I don't know how familiar you are with the Trinity
25 programming, but there's one program where Paul Crouch and his

1 wife participate -- what's the name? What's the name that
2 they participate --

3 MR. EMMONS: Praise the Lord.

4 MR. COHEN: Praise the Lord, and there's a lot of
5 commentary, I've viewed that program. There's a lot of
6 commentary by Mr. Crouch and I can see very readily where you
7 could make comment on the -- on the -- if they would broadcast
8 portions of the examination of Glendale witnesses, I could see
9 where he could make comments.

10 What I'm asking for is a representation that if they
11 taped his broadcast, there would be no disparaging remarks or
12 nothing that would be done that -- nothing would be done that
13 would be disparaging.

14 Now, it seems to me that inasmuch as Trinity has a
15 special status here, they're not CNN. They have an enormous
16 stake in this proceeding, but have a stake in taping, that I'm
17 entitled, I would think that the Court would want that kind of
18 assurance.

19 JUDGE CHACHKIN: Do you have any comments, Mr.
20 Emmons?

21 MR. EMMONS: Well, just generally, Your Honor that I
22 -- I can't speak to what Trinity might or might not broadcast,
23 or what might or might not be said by anybody on the Trinity
24 Program. I don't want that to be taken as an assumption that
25 Trinity has any intention of disparaging, to use Mr. Cohen's

1 word, any witness in this case, any party in this case, or
2 anything else.

3 But a broadcast licensee has the discretion and the
4 right under the law and the Constitution to broadcast what it
5 deems as broadcast worthy and I don't, with all due respect,
6 Your Honor, to the Commission, I don't think the Commission
7 can impose a requirement in advance in the nature of a "gag
8 order" of some kind, that would prescribe limitations upon
9 what might be broadcast, or what ought not to be broadcast by
10 a licensee.

11 Now, having said that, I think that's the principal
12 law that governs here. But I again, don't want Your Honor, to
13 think for a moment that by stating that principal I am
14 attempting to provide cover for some hidden intention here on
15 Trinity's part, I'm not doing that at all.

16 JUDGE CHACHKIN: Well, I am not going to impose any
17 "gag order" of any kind. Trinity does something which Mr.
18 Cohen feels improper, I assume he has some recourse, either
19 files something with the Commission or whatever else recourse
20 you feel is appropriate.

21 MR. McCURDY: Your Honor, could it be limited, their
22 coverage as to news purposes, news casting purposes? I mean,
23 because it seems to me, you could use this videotape for a
24 variety of things other than just news coverage.

25 JUDGE CHACHKIN: Well, I --

1 MR. McCURDY: And that would be consistent with
2 allowing cameras in here.

3 JUDGE CHACHKIN: Well, I don't know what you mean by
4 news purposes.

5 MR. McCURDY: News reporting purposes.

6 MR. EMMONS: Your Honor, that all comes down to
7 subjective definitions of what's news, what's public affairs,
8 what's informative, what's educational, what's instructional.
9 One man's news might be another man's public affairs. Or
10 another man's instruction or education. I don't think it's
11 useful to get into semantic definitions on this. So we've
12 represented, and it will be the case that it would be used or
13 not used only for broadcast purposes.

14 JUDGE CHACHKIN: Any other comments from the
15 parties? Even before I received this motion, I intended to
16 grant authority to CNN to broadcast all or any portion of the
17 hearing testimony of the witnesses, and I am going to afford
18 this same permission to Trinity.

19 I don't think at this stage that we -- well, there's
20 only two entities that we have to worry about who coverage. I
21 have indicated to CNN, the man I spoke to today, Art Harris,
22 that I would expect that whatever they do, would not be
23 disruptive and he assured me it wouldn't be disruptive to the
24 proceedings.

25 To the extent possible, where same equipment could

1 be used by Trinity and CNN, if it's possible to share
2 equipment, that they would get together with Trinity when they
3 get -- when they're both here and see if it can be done.

4 I notice that S.A.L.A.D. indicates here the
5 journalist and supports staff should be expected to report by
6 9:00 a.m. and I told CNN that certainly by 9:00 a.m., but even
7 possibly by 8:30 they should be here to set up, so that we
8 don't have any interruption in the hearing.

9 If we start starting at 9:00, it may even be
10 necessary for them to be here by 8:00. But assuming that we
11 continue at 9:30, I think 8:30 would be reasonable.

12 As far as interviews, I indicated to them that there
13 would not be any interviews on this floor, and if any
14 interviews are going to be conducted, they'll be done in the
15 lobby or outside. So it shouldn't effect the hearing here.

16 Mr. Honig indicates that this tape recording should
17 be done passively by a camera crew using one camera, with only
18 ambient light, but I'm going to leave that up to the networks
19 to do so. If I feel or anybody else feels that it's
20 disruptive, it's causing problems, then I'll have to take
21 another look at it and see where we go. But as far as -- I'm
22 going to be flexible until I see exactly how it works out.

23 He also raised a question about objection of any
24 witness. I assume that since Trinity is going to do the
25 broadcasting, and it's their witnesses, their witnesses are

1 not objecting to being televised.

2 MR. EMMONS: We don't anticipate that any Trinity
3 witness is going to object, Your Honor.

4 JUDGE CHACHKIN: And if there are any objections by
5 anyone else, they'll have to take it up at that point. But my
6 inclination is to -- in this type of proceeding, to allow
7 televising since it doesn't seem to be this involved, a
8 situation where privacy arguments could be made reasonably.
9 But we'll just have to wait and see if anybody objects.

10 I notice Mr. Honig has set December 3rd for such
11 objections. But I didn't even know if the witnesses -- all
12 the witnesses are aware of the fact of what we're doing. So
13 we'll just have to play it by ear and see how it goes. And --

14 MR. TOPEL: Your Honor, I can indicate who the
15 witness is --

16 JUDGE CHACHKIN: Pardon me?

17 MR. TOPEL: Many of the witnesses do not -- have not
18 been advised of the telephone -- the taping of the
19 proceedings.

20 JUDGE CHACHKIN: And we still don't know frankly to
21 what extent there is going to be televising. I understood
22 Trinity is indicating they're going to televise everything,
23 but that remains to be seen. CNN apparently doesn't plan on
24 televising everything. They're not limiting themselves to Dr.
25 Crouch. They may also want to televise at least portions of -

1 - who was the first witness, Dent?

2 MR. TOPEL: Mrs. Duff.

3 JUDGE CHACHKIN: Duff, I'm sorry. And perhaps other
4 witnesses, members of the Board. They may also televise all
5 portions of it, but that's up to them.

6 So finally we'll just see how it goes. So the
7 extent to which this is a motion to permit television
8 coverage, it's granted to the extent to which I've indicated.
9 I'm not setting the conditions that Mr. Honig wanted, I'm
10 going to be more flexible and see how it works out.

11 If we get to a situation where there's a need for
12 pool coverage then we'll take it up at that point. I've been
13 told by CNN, they believe that it would be possible for the
14 two entities to be here at the same time without interrupting
15 them or interrupting the proceeding. We'll just see how it
16 works out.

17 All right. Let's proceed, what's the next Exhibit?

18 MR. TOPEL: Your Honor, I believe TBF Exhibit 105
19 has been received. So at this point, if your records confirm
20 it --

21 JUDGE CHACHKIN: I believe we're at 106.

22 MR. TOPEL: Yes. TBF offers TBF Exhibit 106.

23 JUDGE CHACHKIN: All right.

24 (Whereupon, the document referred to
25 as TBF Exhibit No. 106 was marked for

1 identification.)

2 JUDGE CHACHKIN: Any objection to this, sir? All
3 right. Please state --

4 MR. COHEN: Your Honor, consistent with what I
5 understand to be your rules in the last few days, I'm going to
6 make my objections based upon -- to remove this -- I'm going
7 to make my objections based upon what I understood you ruled
8 as relevant or not relevant. In that regard, I have no
9 objection to paragraph 1, but I do object to paragraph 2, I
10 think that this is clearly the type of material that you have
11 rejected previously.

12 JUDGE CHACHKIN: I will strike that paragraph 2 as
13 irrelevant.

14 MR. COHEN: And I make the same objection, Your
15 Honor, to paragraph 3.

16 JUDGE CHACHKIN: That paragraph will also be
17 stricken as irrelevant. Any further objections?

18 MR. COHEN: I'm looking, Your Honor, I don't think I
19 do. But I just want to -- I may have just one test. I have
20 nothing before paragraph 26, I have not consulted with the
21 Bureau, so I don't know.

22 JUDGE CHACHKIN: Does the Bureau have any objections
23 prior to 26?

24 MR. SHOOK: Yes, Your Honor, with respect to
25 paragraph 6, the Bureau has no objection to the first two

1 sentences, then the Bureau does have a relevance objection.
2 It begins on the 5th line, the sentence begins "I was," and
3 continues through the second to the last -- next to the last
4 line at the bottom of the page, where the sentence concludes,
5 "Minister particularly to my people." The Bureau has a
6 relevance objection to those sentences.

7 JUDGE CHACHKIN: Where does it --

8 MR. SHOOK: It begins on the --

9 JUDGE CHACHKIN: Oh, I see, I see. All right. Let
10 me read it. Any comments?

11 MR. TOPEL: Yes, Your Honor, this is the very
12 process by which Pastor Espinoza became a director of National
13 Minority T.V. right at the beginning.

14 JUDGE CHACHKIN: I'll overrule the objection. Any
15 further objections?

16 MR. SHOOK: Yes, Your Honor, in paragraph 7, the
17 Bureau has no objection to the first two sentences, but then
18 the next two sentences the Bureau does object to on relevance
19 grounds.

20 JUDGE CHACHKIN: Where does that begin?

21 MR. SHOOK: It begins the fourth -- in the fourth
22 line of paragraph 7, "This seemed sensible to me." And
23 concludes with "Then I was." It's those two sentences.

24 MR. TOPEL: Your Honor, just briefly, this is a
25 decision of National Minority Television, as to Pastor

1 Espinoza's consent to the officers, and the reasons he gave
2 that consent, again to the heart of who made the decision and
3 why.

4 JUDGE CHACHKIN: Why don't -- why doesn't the Bureau
5 believe this is irrelevant?

6 MR. SHOOK: Your Honor, as far as the Bureau can
7 tell, the records that exist on this subject contain no
8 discussion whatsoever, and it -- I just find this, you know,
9 not connected to any other part of the record, in terms of
10 what may have been in his mind relative to this decision made
11 some 13 years ago.

12 JUDGE CHACHKIN: Well, I guess you could explore
13 that in cross examination, these are the reasons he's giving.
14 Any further objections?

15 MR. SHOOK: Yes. Two sentences -- well, let me see.
16 Yes, the next to the last -- not the next to the last
17 sentence. The sentence that begins with "For example, for
18 many years my mother --" and then the sentence that follows
19 that, "We have an administrator who is actually responsible
20 for these sorts of details." It's the third to the last and
21 fourth to the last sentence in paragraph 7.

22 JUDGE CHACHKIN: I'll strike that material
23 consistent in my rulings that the way other organizations
24 operate is irrelevant. Any other objections?

25 MR. TOPEL: Your Honor, I'm not going to re-argue

1 the territory we've covered, I think there was no objection
2 and properly no objection to the sentence about what Mrs. Duff
3 did. The problem is that we've strick -- we've now stricken
4 the kinds of details that Mrs. Duff handled.

5 MR. SHOOK: To be consistent with that, I was going
6 to ask the Judge to strike the words "These sorts of," and
7 simply have the sentence read "Mrs. Duff handled details."

8 MR. TOPEL: Well, I think that alludes the substance
9 of Pastor Espinoza's --

10 JUDGE CHACHKIN: Well, if you want to change it so
11 to read that it refers to what Mrs. Duff did, and doesn't make
12 any reference to the way other organizations operate.

13 MR. TOPEL: Right.

14 JUDGE CHACHKIN: You can do so, I'll permit you to
15 reform it in that manner.

16 MR. TOPEL: Thank you, I may be able to do it on the
17 spot here, Your Honor, if I can have 30 seconds.

18 JUDGE CHACHKIN: All right.

19 MR. TOPEL: It's not as easy as I thought, Your
20 Honor, to reform it.

21 MR. SHOOK: Your Honor, I have no objection to Mr.
22 Topel revisiting this sentence after he's had time to reflect
23 on what he would, you know, how he would like to reform it.

24 JUDGE CHACHKIN: All right. Doesn't Mrs. Duff's
25 testimony reveal what her -- what she did, the types of duties

1 she had? If that's the case, why do we need it?

2 MR. TOPEL: Perhaps we can do it quickly, Your
3 Honor. Mr. Shook, you are suggesting taking out just the
4 word?

5 MR. SHOOK: "These sorts of."

6 MR. TOPEL: Uh --

7 JUDGE CHACHKIN: If you want to refer to Mrs. Duff's
8 testimony, perhaps that's the way to handle it.

9 MR. TOPEL: I'll accept Mr. Shook's reformation so
10 we can not have to go back.

11 JUDGE CHACHKIN: All right.

12 MR. COHEN: What is it, Your Honor?

13 JUDGE CHACHKIN: "These sorts of," are taken out, it
14 reads "Mrs. Duff handled details for Translator T.V." And you
15 have the type of details Ms. Duff handled, I assume in Mrs.
16 Duff's testimony.

17 MR. SCHONMAN: The sentence beginning "For example,"
18 is stricken?

19 JUDGE CHACHKIN: That's stricken, yes, because that
20 refers to how other entities operates.

21 MR. TOPEL: That makes sense.

22 MR. SHOOK: And then also the following sentence.

23 MR. TOPEL: Yes.

24 JUDGE CHACHKIN: The following sentence -- yes, the
25 following sentence is also stricken. And it starts with "Mrs.

1 Duff handled details for Translator T.V." Now, do you want to
2 say "Mrs. Duff handled details such as," you can do that.
3 Form it in that manner, perhaps, might be agreeable to the
4 parties if it's consistent with her testimony.

5 MR. TOPEL: Thank you, Your Honor, of course it has
6 to be consistent with Pastor Espinoza's understanding. Let me
7 take a look at that, but --

8 JUDGE CHACHKIN: All right.

9 MR. TOPEL: -- I think we can move on, and I'll
10 advise you if we wish to come back to it.

11 JUDGE CHACHKIN: All right.

12 MR. TOPEL: Thank you, Your Honor.

13 JUDGE CHACHKIN: Any further objections?

14 MR. SHOOK: Yes, Your Honor, in paragraph 10, it
15 begins, it would be the third sentence, beginning six lines
16 down, the first portion of the sentence the Bureau finds
17 objectionable. The words, "The fact that Translator T.V. is a
18 minority owned corporation was discussed since." I have no
19 problem with "Mrs. Duff is an African-American, and I am
20 Hispanic." I do have a problem with the preceding portion, it
21 seems a conclusory nature.

22 MR. TOPEL: Well, Your Honor, in this case it's
23 offered to describe the content of a conversation which led to
24 the first certification, I think that's an issue in this case.
25 And I think as a description of the conversation, it should

1 | be allowed as to what Mr. -- Pastor Espinoza and Mrs. Duff
2 | were saying to each other, we certainly would accept a
3 | limitation that it doesn't establish the fact of minority
4 | control. We understand that Your Honor will be doing that.

5 | JUDGE CHACHKIN: Now, do I understand your objection
6 | is to what? The words, "Since Mrs. Duff is an African-
7 | American, and I am Hispanic?"

8 | MR. SHOOK: No. The Bureau does not object to that
9 | portion of the sentence. What the Bureau objects to is the
10 | preceding portion of the sentence, the words "The fact that
11 | Translator T.V. is a minority owned corporation was discussed
12 | since." Those would be the words that the Bureau would wish
13 | to strike.

14 | JUDGE CHACHKIN: And the words you want is "Mrs.
15 | Duff is an African-American and I am Hispanic?"

16 | MR. SHOOK: Yes, sir.

17 | MR. TOPEL: Your Honor, I think that just dilutes
18 | the content of the discussion that relates to both of these
19 | parties' state of mind at the time that the first
20 | certification in issue was made. Again, it doesn't go to the
21 | legal conclusion as to whether they were right or wrong, but
22 | they're certainly entitled to indicate that this is what they
23 | talked about before they went forward and made a submission to
24 | the FCC.

25 | MR. SHOOK: Your Honor, with the understanding that

1 | this would be limited only to Reverend Espinoza's state of
2 | mind, the Bureau would not -- withdraws its objection.

3 | JUDGE CHACHKIN: Well, the representation being made
4 | here is that there was specific discussion in which the
5 | parties used the words "minority owned corporation," is that
6 | the representation made here?

7 | MR. TOPEL: That's the --

8 | JUDGE CHACHKIN: But they used that specific words,
9 | "minority owned corporation?"

10 | MR. TOPEL: That's my understanding -- that's the
11 | witness's testimony, yes.

12 | JUDGE CHACHKIN: Well, the way it's phrased is the
13 | fact, if it should have been phrased is "We've discussed," or
14 | something. But the fact -- all right. Some of these, the way
15 | it's written, it's hard to believe that people talk in this
16 | manner, with these conclusion -- well, in any event --

17 | MR. TOPEL: Your Honor, I think I've won, so maybe I
18 | should shut up. But I mean, I have no problem because we're
19 | not trying to pull any slick moves on, you know, what's a
20 | fact, and what's a legal conclusion for Your Honor to draw, if
21 | the Bureau wishes that to be revised to say "The belief that
22 | Translator --"

23 | JUDGE CHACHKIN: No, this is -- this is the Bureau
24 | wants to limit it just to state of mind, the sentence and it
25 | would be so limited. Let's proceed.

1 MR. SHOOK: Your Honor, the next sentence, the --
2 there's a portion of the sentence that the Bureau objects to.
3 I knew that the Bureau finds acceptable. Now, this is the
4 part that the Bureau finds unacceptable. "For non-profit
5 corporations, the directors were like shareholders of a for-
6 profit corporation, and that of the three directors, who were
7 the only ones who could vote." Then at that point, those are
8 the words that the Bureau objects to.

9 So that the reformed sentence would read, "I knew
10 that Jane and I could always out-vote Paul." I have no
11 problem with that. But I do object on relevance grounds to
12 references to non-profit corporations. And what this
13 witness's general knowledge of that may or may not have been.

14 MR. TOPEL: Again, Your Honor, the --

15 JUDGE CHACHKIN: I'll overrule the objection.

16 MR. TOPEL: Thank you.

17 JUDGE CHACHKIN: The witness can be questioned on
18 this basis of her knowledge.

19 MR. SHOOK: Paragraph 14.

20 JUDGE CHACHKIN: Yes.

21 MR. SHOOK: At the last -- the second to the last
22 line on page 8, I have no difficulty with the witness
23 testifying as to what he liked, or what he felt, but I do
24 object conclusion of -- a reference to Mrs. Duff at that
25 point.

1 MR. TOPEL: Your Honor, I would be willing to reform
2 that to read, "I liked -- because I felt -- " I have no
3 problem with that.

4 JUDGE CHACHKIN: All right.

5 MR. SHOOK: And then the concluding sentence on
6 paragraph 14 I object to on the grounds of -- the Bureau
7 objects to on the grounds of relevance because I see no
8 connection -- or there's no connection that I can see between
9 Reverend Espinoza's hopes and what was done or not done.

10 JUDGE CHACHKIN: Any comments?

11 MR. TOPEL: If I can have one second to read the
12 context, Your Honor. Your Honor, I think that you've ruled
13 that what the company did or did not do is not relevant to
14 controlling decisions. In this instance, however, this
15 testimony isn't offered for the purpose of going to the issue
16 of what the company did or did not do.

17 It's offered for a decision that was made to change
18 the name of the company to National Minority Television, and
19 Pastor Espinoza's thinking in why he approved that decision.
20 And he approved it because he felt that it reflected the
21 purposes of the corporation and he is testifying that -- why
22 he felt that way, why he made that decision to change the
23 corporation's name. So it relates to a decision he made not
24 to -- not to the future of what the corporation --

25 JUDGE CHACHKIN: I'll overrule the objection. Any

1 further objections?

2 MR. SHOOK: Your Honor, paragraph 19.

3 JUDGE CHACHKIN: Yes.

4 MR. SHOOK: The portion of it that appears on page
5 13.

6 JUDGE CHACHKIN: Yes.

7 MR. SHOOK: Beginning the fourth line down, I have a
8 competence objection to the reference that Mrs. Duff wrestled
9 with the idea of selling the Odessa Station. I have no
10 problem with Reverend Espinoza's wrestling with the problem.

11 MR. TOPEL: I have no problem, Your Honor, striking
12 the words both Mrs. Duff and --

13 JUDGE CHACHKIN: All right. So the sentence reads,
14 "Dr. Crouch had twice suggested selling Odessa Station, and I
15 wrestled with the idea of selling the Odessa station?"

16 MR. TOPEL: Yes.

17 JUDGE CHACHKIN: All right. Further objections?

18 MR. SHOOK: Your Honor, if I might, in light of that
19 change, I think the next sentence where it says "We finally
20 agree," it should be reformed to read "Mrs. Duff and I finally
21 agreed," since that's who the "we" refers to.

22 MR. TOPEL: I would have no problem with that, Your
23 Honor.

24 JUDGE CHACHKIN: Mrs. Duff and I, instead of we?

25 MR. SHOOK: Yes.

1 JUDGE CHACHKIN: All right. Further objections?

2 MR. SHOOK: Your Honor, paragraph 24, this is the
3 portion that appears on page 16, it's toward the end of the
4 paragraph. The sentence that begins eight lines up from the
5 bottom. "Not only were they different in ownership in that
6 minorities represented by Mrs. Duff and I owned an MTV," but
7 also that Bureau finds that portion of the sentence
8 objectionable because it's conclusory.

9 MR. TOPEL: Your Honor, may I have a moment to
10 review this?

11 MR. SHOOK: The Bureau would then reform the
12 sentence to instead of reading "Our goals included," it would
13 simply be "NMTV's goals," or National Minority T.V.'s, however
14 it is that they have it shortened here. I guess it's "NMTV's
15 goals included," etc. to the end of the sentence would be
16 acceptable.

17 MR. TOPEL: Your Honor, may we go off the record for
18 a second so that --

19 JUDGE CHACHKIN: Yes.

20 (Off the record.)

21 (Back on the record.)

22 MR. TOPEL: Yes, sir, and I would just submit that
23 this entire paragraph is relating to the witness's state of
24 mind, explaining a document, and I would submit that the
25 language should be included with the limitation that it